

December 10, 2014

U.S. immigration law recognizes only legal adoptions

Q: My relative in the U.S. is filing for an immigrant visa for me and I would like to bring my adopted child with me. How should I do this?

A: Congratulations on your expanded family! For immigration purposes, it's important to note a distinction between a child that is informally adopted – say, a niece or nephew that you're taking care of while their parent is away – and a child that is formally and legally adopted by you according to Jamaican law. A legally adopted child may benefit from U.S. immigration law but an informal adoption does not count.

The law allows legally adopted children to be added to your immigrant petition, provided that your visa category supports additional derivatives (relatives), if the children meet the law's definition of 'child.' In order to be defined as 'children', they must be:

Legally adopted while under the age of 16 (or under the age of 18 if adopted with another sibling under the age of 16).

In the legal custody of, and have resided with, the adoptive parent for at least two years. If an adoptive parent was awarded legal custody of the child before the adoption was final, this period of legal custody will be taken into account. If legal custody did not exist prior to adoption, the date the adoption decree was issued will be the date custody starts for immigration purposes.

At your visa interview, bring proof that your adopted child meets these requirements. The Adopted Child Register is the primary proof of legal adoption; if using legal custody to meet the two-year requirement, also bring the legal custody decree. For evidence of residence with you, be prepared to show that you've lived together as parent and child for at least two years – for example, school or medical records, mail to both of you at the same address, evidence of financial support, affidavits from neighbors, etc. If you can bring sufficient evidence at the first interview, it will help the visa process move quickly and smoothly.

If you have questions about the process, feel free to email our Immigrant Visa unit at kingstoniv@state.gov – we can advise on document questions or if derivatives can be included in your petition prior to the interview. The officer will then let you know at the interview if further evidence is needed.

It's also important to note that if your legally adopted child has living biological parents, the biological parents do not have any future rights, privileges or status regarding U.S. immigration – so an adopted child cannot file for a biological parent later on in their lives.

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